

REMARKS

Claim 1 has been amended to resolve an issue raised by the Examiner under 35 U.S.C. 112, second paragraph. Claim 16 has been amended to correct a typographical error. Claim 29 has been amended to recite the proviso that is recited at the end of claim 1.

Entry of the above amendment is respectfully requested.

Rejection under 35 U.S.C. 112, Second Paragraph

On page 2 of the Office Action, in paragraph 1, claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

In response, Applicant notes that the compound in the proviso of claim 1 which had the $N(C_4H_9)_2$ terminal group has been deleted.

Accordingly, Applicant submits that claim 1 satisfies the requirements of 35 U.S.C. 112, second paragraph, and withdrawal of this rejection is respectfully requested.

Obviousness Rejection

On page 3 of the Office Action, in paragraph 4, claims 1, 4-7, 9-15, 17, 19 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichihashi (JP 2001133630 or equivalent US 6,686,980).

In response, Applicant note initially that Ichihashi describes in US 6,686,980, example 3, a composition 1 comprising as a first compound dichroic **bis-azo** dye, which is excluded from the scope of the present invention.

Further, Applicant notes that in US 6,686,980, in columns 3 and 4, generic structures of dichroic dyes are described. However, there are only tri-azo, anthraquinone, and

phthalocyanine-type dichroic dyes given in the specification in columns 3 and 4. It is further indicated in lines 16 to 24 in column 4 that these dyes are accessible according to known methods.

In contrast, Applicants submits that there is no teaching provided by Ichihashi as to how to prepare the dichroic dye of example 3.

Applicant submits that since there is no disclosure in US 6,686,980 as to how this dichroic dye of example 3 is accessible, this dye does not render the present invention obvious.

That is, Applicant submits that a skilled person could not arrive at the dichroic dyes of the present invention using the teaching of US 6,686,980. Firstly there is no hint provided as to how this dichroic dye of example 3 is accessible, and secondly there is no teaching that and how this dye should be changed for arriving at the dichroic dyes of the present invention.

Hence, Applicant submits that only from hindsight could one foresee the dyes of the present invention in view of US 6,686,980. However, hindsight is forbidden in patent law.

With respect to the Response to Arguments section set forth in paragraph 7 of the Office Action, Applicant notes initially that the present invention does not comprise this dichroic dye of example 3 of US 6,686,980.

Further, Applicant submits that the method of preparation of the dyes of the present invention is described in the specification. Examples 1 to 4 specifically describe representative preparation processes which give access to the dichroic dyes of the invention. On page 31 of the present application, it is described that the dichroic dyes of examples 5 to 23 are “synthesized using similar methods as described in examples 1-4...” .

Thus, Applicant submits that a skilled person can easily prepare the dichroic dyes of the invention without being inventive.

Accordingly, Applicant submits that the invention as recited in claim 1 is patentable, and hence, claims 8, 20-24 and 31-54 should not be withdrawn from consideration.

Thus, Applicant submits that present invention is non-obvious over US 6,686,980, and withdrawal of this rejection is respectfully requested.

Anticipation Rejection

On page 4 of the Office Action, in paragraph 5, claim 29 is rejected under 35 U.S.C. 102(b) as anticipated by Ichihashi (JP 2001133630 or equivalent US 6,686,980).

In response, Applicant submits that the polymerizable dichroic azo dye disclosed by Ichihashi in US 6,686,980, example 3, is excluded from the scope of amended claim 29.

Accordingly, Applicant submits that claim 29 is not anticipated by Ichihashi, and withdrawal of this rejection is respectfully requested.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Bruce E. Kramer/

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Bruce E. Kramer
Registration No. 33,725

Date: October 21, 2010